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ICANN Transcription

GNSO Council Meeting

Thursday, 15 February 2024 at 21:00 UTC

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The recordings and transcriptions of the calls are posted on the GNSO Master Calendar page
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List of attendees:

Nominating Committee Appointee (NCA): **– Non-Voting** – Anne Aikman Scalese

Contracted Parties House

Registrar Stakeholder Group: Antonia Chu, Greg DiBiase, Prudence Malinki

gTLD Registries Stakeholder Group: Nacho Amadoz, Kurt Pritz, Jennifer Chung

Nominating Committee Appointee (NCA): Desiree Zeljka Miloshevic Evans

Non-Contracted Parties House

Commercial Stakeholder Group (CSG): Lawrence Olawale-Roberts, Mark Datysgeld (absent), Osvaldo Novoa, Thomas Rickert, Damon Ashcraft, Susan Payne

Non-Commercial Stakeholder Group (NCSG): Stephanie Perrin, Bruna Martins dos Santos (joined late, after vote), Wisdom Donkor, Tomslin Samme-Nlar , Peter Akinremi, Manju Chen

Nominating Committee Appointee (NCA): Paul McGrady

Note: The following is the output resulting from transcribing an audio file into a word/text document. Although the transcription is largely accurate, in some cases may be incomplete or inaccurate due to inaudible passages and grammatical corrections. It is posted as an aid to the original audio file, but should not be treated as an authoritative record.

GNSO Council Liaisons/Observers :

Justine Chew : ALAC Liaison

Jeff Neuman: GNSO liaison to the GAC

Everton Rodrigues: ccNSO observer

Guests:

Odeline MacDonald, Eleeza Agopian, Amy Bivins, Brian Gutterman, Amanda Rose, Steve Sheng - all from ICANN Org

ICANN Staff:

David Olive - Senior Vice President, Policy Development Support and Managing Manager, ICANN Regional

Mary Wong - Vice President, Strategic Policy Management

Steve Chan – Vice President, Policy Development Support & GNSO Relations

Julie Hedlund - Policy Development Support Director (GNSO)

Berry Cobb - Senior Program Manager, Policy Development Support

Caitlin Tubergen - Policy Development Support Director (GNSO)

Saewon Lee - Policy Development Support Manager (GNSO)

Feodora Hamza - Policy Development Support Manager (GNSO)

Terri Agnew - Policy Operations Specialist (GNSO)

Devan Reed - Secretariat Operations Coordinator

TERRI AGNEW: Good morning, good afternoon, good evening, and welcome to the GNSO Council meeting on Thursday the 15th of February 2024. Would you please acknowledge your name when I call it? Antonia Chu?

ANTONIA CHU: Present. Thanks, Terri.

TERRI AGNEW: You are welcome. Nacho Amadoz.

NACHO AMADOZ: Present. Thank you very much, Terri.

TERRI AGNEW: Welcome. Jennifer Chung?

JENNIFER CHUNG: Present. Thank you, Terri.

TERRI AGNEW: Most welcome. Kurt Pritz?

KURT PRITZ: I'm here. Thank you, Terri.

TERRI AGNEW:	Most welcome. Greg DiBiase?
GREG DIBIASE:	Here.
TERRI AGNEW:	Prudence Malinki?
PRUDENCE MALINKI:	Present.
TERRI AGNEW:	Desiree Miloshevic?
DESIREE MILOSHEVIC:	Present.
TERRI AGNEW:	Lawrence Olawale-Roberts? We did have Lawrence on. He tested his audio. It was good. But I don't see that he's on any longer. We'll go ahead and try to dial out to him in a moment. Mark Datysgeld? I don't see where Mark is on, but we'll follow up to see if we can get him to join. Damon Ashcraft?
DAMON ASHCRAFT:	I'm here, Terri.

TERRI AGNEW: Susan Payne?

SUSAN PAYNE: Present.

TERRI AGNEW: Osvaldo Novoa.

OSVALDO NOVOA: Here. Thank you.

TERRI AGNEW: Thomas Rickert?

THOMAS RICKERT: Present.

TERRI AGNEW: Wisdom Donkor?

WISDOM DONKOR: Present.

TERRI AGNEW: Stephanie Perrin?

STEPHANIE PERRIN: Present. Thanks, Terri.

TERRI AGNEW: You are welcome. Peter Akinremi?

PETER AKINREMI TAIWO: I'm here, Terri.

TERRI AGNEW: Tomslin Samme-Nlar?

TOMSLIN SAMME-NLAR: Present.

TERRI AGNEW: Manju Chen?

MANJU CHEN: Present. Thank you, Terri.

TERRI AGNEW: You are welcome. Bruna Martins dos Santos?

BRUNA MARTINS DOSSANTOS: Also present. Thanks, Terri.

TERRI AGNEW: You are welcome. Paul McGrady?

PAUL MCGRADY: Here.

TERRI AGNEW: Anne Aikman Scalese?

ANNE AIKMAN SCALESE: Present.

TERRI AGNEW: Jeffrey Neuman?

JEFFREY NEUMAN: Present. Thank you, Terri.

TERRI AGNEW: You are welcome. Justine Chew?

JUSTINE CHEW: Present. Thanks, Terri.

TERRI AGNEW: Most welcome. Everton Rodrigues.

EVERTON RODRIGUES: Present. Thank you.

TERRI AGNEW: You are welcome. Guests today will be Odeline MacDonald, Eleeza Agopian, Amy Bivins, Brian Gutterman, Amanda Rose, Steve Sheng, all from ICANN Org for different topics. Policy team supporting the GNSO, we have Steve Chan, Julie Hedlund, Caitlin Tubergen, Saewon Lee, Berry Cobb, Devan Reed, and myself, Terri Agnew. May I please remind everyone here to state your name before speaking as this call is being recorded. As a reminder, we are in a Zoom webinar room. Councilors are panelists and can activate their microphones and participate in the chat once they have sent their chat to everyone for all to be able to read the exchanges. A warm welcome to attendees on the call who are silent observers, meaning they do not have access to their microphones nor the chat. As a reminder, those who take part in ICANN multi-stakeholder process are to comply with the expected standards of behavior. With this, I'll turn it back over to the GNSO chair, Greg DiBiase. Please begin.

GREG DIBIASE: Thank you so much, Terri. Welcome to the February meeting. We have a pretty packed agenda today. We ended early last time, so we thought we'd challenge everyone to efficiently get through topics today. I will start with seeing if anyone has an update to their SOI. Mr. McGrady.

PAUL MCGRADY: Hi there, Paul McGrady here. Thanks, Greg. I have a slight amendment to my SOI in that I updated the various committees and small groups within ICANN that I am involved in, but also added that I am now a member of the board of the INTA PAC, and it's consistent with past participation within INTA, but it's notable, so I made that update. Thanks.

GREG DIBIASE: Great. Thank you, Paul. Any other updates to SOI or any proposed revisions of the agenda? Hearing none, I will remind folks that the minutes for the January meeting were sent out on February 2nd, and remind people to review those minutes to ensure their accuracy. And from there, I'd like to go straight to the consent agenda, and I think Tomslin will help run us through this. Tomslin, are you there?

TOMSLIN SAMME-NLAR: I am. Thanks, Greg. Like Greg mentioned, this is the consent agenda on the Standing Selection Committee. There are two consent agendas here. The first being to confirm the Standing Selection Committee's members and leadership. At the time I sent the motion out, the leadership had not been selected yet, but they are now. And the chair is Karen Day, and the vice chair is Segunfunmi Olajide.

And the second motion was regarding the SSC selection of a GNSO-nominated mentor for the 2024 ICANN Fellowship Program. And for that, Mark was selected as the mentor. So I

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think with that, I will go straight to the voting. Terri can help with that, thanks.

TERRI AGNEW: Thank you very much. Before we go to a voice vote, I just want to note that Mark Datysgeld is not on for the vote. So at this time, we'll go ahead and proceed. For the consent agenda, would anyone like to abstain from this motion? Please say aye. Hearing no one, would anyone like to vote against this motion? Please say aye. Hearing none, would all those in the favor of the motion please say aye?

PARTICIPANTS: Aye.

TERRI AGNEW: Thank you. No abstention, no objection. The motion passes. Back to you, Greg.

GREG DIBIASE: Thank you so much. Thank you, Tomslin. Next on our agenda is a council vote regarding registration data accuracy. And this is whether to extend a deferral on taking up work proposed by the Registration Data Accuracy Scoping Team. We discussed this in the last meeting and for several meetings before that. If you recall, there are a couple of pending items that could improve this work. The one that has remained open is the data protection agreement between contracted parties and ICANN, which would at some

level enable data to be shared between these parties. So that hasn't changed, and we're still waiting on that.

One input that has changed relatively recently is ICANN delivered a data protection impact assessment on the potential scenarios for gathering data on accuracy. And those who read the report will recall that there are some challenges in getting data to assess accuracy to help scope the potential issue before the council. So that is the high level picture. To provide a little more context on the data protection impact assessment and some analysis that ICANN has done, I believe Odeline, you'd like to say a few words before we move to a vote on ICANN's perspective here?

ODELINE MACDONALD: Thank you, Greg. Odeline McDonald speaking for the record. Thank you for the opportunity to address this matter with the council today. We wanted to maybe bring some clarification and link to different dots between the different projects we've been addressing from an ICANN point of view regarding accuracy. So we would like in particular to address whether this concern raised by councilors regarding the finalization of the DPA or the data processing agreement or the actual data processing specification as it's actually called, should indeed be considered a prerequisite for the activities of the accuracy scoping team. Because we've been hearing this narrative and we wanted to create a link with the exercise we've been doing on the DPA, as you mentioned, Greg.

So while having a data protection agreement, whether it's a data protection agreement under the GDPR or any other form of agreement based on the party's roles in the processing activity, so

that is depending on whether the parties are controllers or processors, et cetera, it could be necessary or beneficial in scenarios involving processing of a large amount of personal data, which would be the case if it would be assessing accuracy of the data. It would not necessarily, and absolutely not, actually, resolve the fundamental data protection challenges that we have been raising in the DPIA. Since these challenges include identifying the right legal basis, passing the legitimate interest test or meeting criteria of necessity, minimization of the processing activity, etc.

So although the implementation of the data processing specifications or the DPS, which is, as you mentioned, currently being negotiated between ICANN and the contracted parties, will be a positive step toward enabling ICANN and the contracted parties to ensure that their own processing of personal data within gTLD registration data, as required by applicable ICANN agreement and policy, can be performed in compliance with data protection laws, the DPS is not going to be a magic bullet, if I can say, that will grant ICANN or the other parties unlimited access to personal data in registration data held by the contracted parties.

Even once the DPS will be in place, ICANN's access to registration data held by the contracted parties will remain limited by applicable laws and the applicable ICANN agreements and policy. There's currently no policy or contract requirement for the contracted parties, as we explained in the DPIA, to provide ICANN with bulk access to gTLD registration data for purposes beyond those that are set in the RAA, which would allow ICANN to request, but also which would allow registrars to provide ICANN

with the non-public registration data, other than those specifically [inaudible] in the agreement.

A large-scale study, as we were assessing in the different scenarios of registration data accuracy, does not align with the limited contract requirements for the contracted parties' provision under the, sorry, the provision of registration data to ICANN. So there is the contractual limitation, we already explained that. The DPS is not going to resolve that, but there are also the limits of the data protection laws. A data protection agreement, or the DPS alone, is not enough for this processing to comply with applicable laws. It's not because you have a contract that says how you're going to process data that you can skip the first step to assess whether you can, under data protection law, assess the data.

This is what the report we shared at the end of last year on the DPIA was about. It detailed the assessment we made on the different scenarios that were envisaged at some point. And in this report, we explained that ICANN believes that it's unlikely that such processing would be compliant with the GDPR and other applicable data protection laws. We saw and identified significant risk and potential absence of legal basis for such processing. We were not able to identify the legitimate interest of ICANN in maintaining accurate, [comprehensive database domain name] registration to ensure security, stability, etc. We were not able to balance this with the rights of the affected data subjects under GDPR article 6.1(f). So it was likely to be outweighed by the rights and the freedoms of the data subjects.

So our conclusion, if you would remember, was ICANN would have to demonstrate that processing a representative data sample

was suitable, necessary, proportionate, but that assessment remained inconclusive and we were not able to say we can do it from a data protection perspective. So on that basis, having a DPS is not going to resolve that initial problem we identified.

Just maybe a little parenthesis on the different roles of the different parties. The fact that ICANN will be considered a controller of its own data under the GDPR does not automatically grant permission for registrants to provide ICANN with additional non-public registration data, nor does it automatically create an obligation for registrants to provide that data to ICANN. It also does not give ICANN the right to process this additional data for different purpose than the one agreed upon between the parties, for example, for restarting the accuracy checks. So this is basically because both ICANN and the registrant must comply with GDPR and other data protection requirements.

So we wanted to provide this information. I know it's a lot of legalese here, but we thought it was important to clarify and link the different dots between the scenarios, the DPS, the DPIA we provided, so the impact assessment we provided the council a few months ago, and to clarify a little bit, hopefully, the expectations in terms of what is coming next with the finalization of the DPS, etc.

GREG DIBIASE: Great, thank you so much for that update. I'll open it up to councilors to see if they have questions for Odeline. Damon.

DAMON ASHCRAFT: Thanks, Greg. I don't have a question for Odeline. I appreciate everything you just went over. That is a lot. I kind of think where I'm coming down on this is with respect to today's vote is to vote yes on it. That being said, at the end of those six months, assuming this passes, I don't think I'm inclined to vote yes again for a further extension. This has gone on long enough, and certainly don't view—DPA would be nice, but if it's not in place, we do need to get this work, and so at the end of the day here, happy to vote for it today. That was sort of the decision that Susan and I had made, but not necessarily planning on voting for further extensions. So that's all I have. Thank you very much.

GREG DIBIASE: Thanks, Damon. That sounds right to me, and yeah, I think, at least speaking in a personal capacity, given the feedback, in six months, maybe we can consider other alternatives to collecting data in bulk, which doesn't seem feasible under ICANN's analysis.

DAMON ASHCRAFT: Greg, we might want to put this on the agenda for the June meeting. Because that's a halfway point. So we need to kind of check in, so I'll put that out there, and I'll try to add it to the agenda, too.

GREG DIBIASE: Great. We will take note of that. Thank you, Damon. Stephanie.

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STEPHANIE PERRIN: Yes, thank you, and I think I agree with Damon there. Perhaps I wasn't following closely enough, for which I apologize, but I'm a little unclear as to what the next steps are that are going to make the feeling in six months any different than today. What are those next steps? I assume ICANN is not going to budge and is not going to assume a controllership role, which I have always contended they should. Thanks.

GREG DIBIASE: Thanks, Stephanie. I think, and anyone feel free to correct me, the next step is still hoping for the completion of the data protection agreement or specification, which I think Odeline characterized is still a step in the right direction, but may not grant bulk access to data that maybe some in the original scoping team envisioned. So there are still some developments that could happen in the meantime that could help this work, but I think ICANN is pointing to some of the analysis they did in this assessment, showing that some of the practices that were done pre-GDPR may no longer be viable. And if I misstated that or misquoted, please feel free to jump in. Odeline, do you want to respond to that before I move to Thomas? Do I have that right?

ODELINE MACDONALD: Just one tiny clarification. I think I meant to say it will not allow for additional processing. So bulk processing, it's not going to be the magic bullet. That's the message I wanted to share. It is not foreseen to allow this, because we cannot do it based on the assessment we made. So it's not a may not, it's a will not, if I may add.

GREG DIBIASE: Great. Thomas?

THOMAS RICKERT: Yeah, thanks so much, Odeline, for the report. That's very, very helpful. So, particularly based on your clarification, I understand that this is going to be a no-go for ICANN to take any risk or get involved in, which I think triggers the question for council, whether it's worthwhile waiting for another six months or whether we can conclude to bury this basically earlier so that we can get it off the list.

I still think that it makes sense for us to see the data protection arrangement or whatever this document is ultimately going to be called. I guess data protection arrangement was the terminology used in the EPDP phase one recommendations, because I think that will hopefully speak to the factual circumstances of the processing and probably enlighten us on the roles that the respective parties will have or have been determined.

And therefore, I guess I have two requests. One is that we should probably have a discussion based on my earlier remarks, whether we want to wait for another six months or whether we can take action or bring this to an end earlier. And if we choose to wait, then I think council should ask for, let's say, monthly progress reports on the work of the small team with respect to the DPA, because I feel like we're being informed that this is almost done six months after six months, and we don't really know where this gets stuck. And councilors will recall that during the SPS, we were

discussing ways how council can support groups that are working on work products that don't seem to make progress. And so I think we should get information on where this gets stuck and whether we can offer resources or otherwise to make sure that we're going to see the document rather in the next weeks than in the next couple of months.

GREG DIBIASE: Thanks, Thomas. Sorry, Odeline, did you want to respond before I moved on?

ODELINE MACDONALD: Thanks, Greg. Odeline, thank you, Thomas. Not on all the questions and all the points. Just to clarify that the plan is indeed to publish the DPS for community feedback once agreed. This is all I can provide you at this point. I don't have a view on the timeline, I'm afraid. Thank you.

THOMAS RICKERT: Thank you. Just briefly, Odeline, I didn't mean to criticize what you've been doing in any shape or form, but I think that council needs to understand where we stand with this. I mean, ultimately, unrelated to the accuracy discussion, this is an open item since EPDP phase one. And you are an expert in the field and I think you will be able to confirm that nobody in this entire ecosystem can be compliant with the GDPR and probably with other privacy laws absent having the agreements in place, which typically need to be entered into before the processing occurs. Therefore, I think

there's some sense of urgency and I think council needs to continue to push for this to be brought to a closure. Thank you.

GREG DIBIASE: Thanks, Thomas. So a couple of points. I think maybe it makes sense to add that to our list of open action items we're waiting on from ICANN, possibly ask more pointed questions about what the delay is as opposed to asking open-ended ones. So that feels like something that we can do that's definitive. And then kind of regarding the next steps on this, perhaps as Damon mentioned, it's warranted to talk about this in a meeting before the six months comes up. We can look at what the alternatives are. Because this initial scoping team report didn't say you need all the bulk or we can't do anything. I think there were some alternatives and then there were some alternatives suggested in ICANN's assessment. So maybe we can look at the alternative options for moving forward and make a decision. In chat, I see some agreement with Thomas and a halfway point check suggested by Damon. And then maybe at that halfway point check, we can kind of explore what options are left on the table basically given this guidance from ICANN about bulk access to data. Okay. Any other comments on that point? Wonderful.

Moving on to item five, update on SubPro small team progress. And I believe we have Paul to help us with this item.

TERRI AGNEW: Greg, this is Terri. So we're not going to vote?

GREG DIBIASE: Oh, sorry. I got ahead of myself. Terri, please, let's vote.

TERRI AGNEW: Wonderful. Just so everyone is clear, we are going to do a voice vote, and this is on registration data accuracy. So at this time, would anyone like to abstain from this motion? Oh, Steve. Yes, I know what Steve is going to say. Go ahead.

GREG DIBIASE: I need to read the resolved clauses?

TERRI AGNEW: Yes.

GREG DIBIASE: Sorry, team. Can you scroll to the resolved clauses on the screen? Okay, resolved. Number one, the GNSO council extends the deferral of consideration of recommendations number one and number two of the Registration Data Accuracy Scoping Team write-up for an additional six months. Number two, the GNSO council commits to considering the scoping team recommendations at an earlier date if DPA negotiations have been completed before six months have passed or another significant event, such as the implementation of the NIS2 directive or the publication of the inferential analysis of maliciously registered domain study occurs before six months have passed. And now I think we can move to a vote.

TERRI AGNEW: I agree. I think we're all settled now. All right, folks. So once again, we are going to do a voice vote on registration data accuracy. Here we go. Would anyone like to abstain from this motion? Please say aye. Hearing no one, would anyone like to vote against this motion? Please say aye. Hearing none, would all those in favor of the motion please say aye?

PARTICIPANTS: Aye.

TERRI AGNEW: Thank you. No abstention, nor objection. The motion passes. And just to note for the record, Mark Datysgeld was not on for this vote either. And with that, I'll turn it back over to Greg.

GREG DIBIASE: Thank you. Okay. Now I think we can move to our next item, update on SubPro small team progress. And I think Paul will help us with this.

PAUL MCGRADY: Thanks, Greg.. Staff was kind enough to help me put together some slides. I apologize for the background noise. I'm having this call in the ad-post club and in their report. So I'll do my best to mitigate the consequences of that. If we can have staff go ahead and launch the update. That'd be great. I do not think that is the first slide, but maybe it is. Oh, here we are. Okay.

All right. So as council knows, we have been—the small team plus, which consists of the council small team plus members of the community had been hard at work. The SubPro looking at the recommendations that were rejected by the board and attempting to come up with supplemental recommendations for council to consider. We are nearing the end of our work. If we can go on to the next slide, please.

So you may remember that in February of 2021, council unanimously adopted the final report. January 2022, the ODP kicked off and it delivered the ODA one year later in December 2022. March of 2023, the board adopted the majority of the recommendations, but placed 38 in pending status. At that point, we established a small team and many of these were then passed onto the board with clarifying statements or mutual understanding that any issues could be resolved with implementation.

September and October, the ICANN board did not adopt seven and three recommendations respectively covering six different topics. And these non-adopted recommendations are the scope of the small team plus. And so the council's charged the small team plus with potentially developing and proposing supplemental recommendations to address the board's concerns. And that is what we've been up to.

So the non-adopted recommendations are generally a subset of six topics. Topic one is the registry voluntary commitments, public interest commitments. Topic 17, applicant support. Topic 18, terms and conditions for the program. Topic 22, registrant protections. Topic 24, string similarity evaluations. Topic 32, limited challenge/appeal mechanisms.

So here's a nice chart of the small team plus membership so that everybody knows who's been participating. Let's go on to the next screen. not going to do too much detail, but quickly tell you where we are. The good news is that we have stable drafts of each of the proposed supplemental recommendations. We'll run through those generally fairly quickly at a very high level. I'm happy to answer questions. And then there'll be some additional community work in prep week and in Puerto Rico, both for the community and for the council on these. We'll get to that.

So for topic nine, this had to do with a waiver to Specification 11. It had to do with DNS abuse for second level registrations in a single registrant TLD. And the supplemental recommendation that has been put together basically is that the waiver is not automatic. Applicants have to apply for it. The waiver can be for either of the subsections 3A or 3B of specification 11. All domain names in the TLD are to be registered to and controlled by the registry operator or an affiliate, and that the registry operator will take effective steps to identify and mitigate domain names that are perpetrating DNS abuse. And so that's kind of where it landed. Let's go to the next slide.

This is hard to see, but you'll see strikethroughs and additional text here, essentially showing how we amended this particular supplemental recommendation. I know we're going to move through these quickly because I think we may already be behind time, but these slides are available. And you'll also see either nearly identical or super suspiciously similar slides for the prep week webinar on this. So everybody will have a chance to look through these in some detail.

Topic 17, applicant support. The board's concern was the open-ended nature of the fees, which may be affirmative payments and costs beyond the application fees, which could raise fiduciary concerns for the board. The supplemental recommendation that the small team plus came up with basically substituted specific reference to application writing fees and attorney's fees for a much broader reference to an array of resources useful for the capacity building, planning, application evaluation, pre-delegation and post-delegation phases of the life cycle of the application and included a reference to community suggestions for the implementation of the recommendation, because there were some in the community that had specific ideas, but those were essentially implementation ideas. You can see here the strikethroughs in the additional text of how the recommendation is being modified to become the supplemental recommendation. And again, yeah, Justine, the slides will be posted so that everybody will have a chance to dig through these. So that's topic 17.

Moving on to topic 18, terms and conditions. This had to do with the ICANN board's ability to reject an application in circumstances that fall outside the specific ground set out in that recommendation. The supplemental recommendation that the small team plus came up with shifted the emphasis away from certain grounds that require ICANN Org to reject the application to providing allowable grounds under which ICANN or may reject an application. And here again, you'll get a chance to look through these, but this is essentially the strikethroughs and the changes that the small team plus came up with in the supplemental recommendation.

And then for recommendation 18.3, again, terms and conditions. The board's concern with 18.3 was that dissatisfied applicants or objectors might argue based on the policy recommendation that the covenant not to sue is not valid because they didn't like the way the appeals and challenge mechanism was built or operated and that they were concerned that anything that could weaken the covenant not to sue might preclude the ability to offer the program itself due to an unreasonable risk of lawsuits.

The supplemental recommendation that the small team plus came up with removed the dependent language between the covenant not to sue and specific reference to the challenge and appeals mechanism that's described under topic 32, which we'll get to, and made clear that there simply must be a challenge and appeals mechanism. And so that is how that was handled. And here are the strike throughs and additional texts. And so that was that. And I should interrupt and say that all along the way, we've had Avri and then Becky and now Becky and Alan giving us some feedback from the board caucus. So we are fairly confident the board should not be surprised by anything.

Topic 24, string similarity. Here, the wording and the board's concern was the wordings in section A and C stipulate that there was an intended use to gTLD, which implies that ICANN will have to enforce the intended use post-delegation, which could be challenged as acting outside of the mission. And there were a number of concerns around extending string similarity beyond just a visual similarity check to include singular and plural check.

The supplemental recommendations substantively removed the intended use elements and also removed extraneous explanatory

text and rationale that's no longer necessary for the recommendation,. added a provision that allows both the singular and plurals to proceed when at least one application is a dot brand, and substituted the reliance on a dictionary to include recognized linguistic resources. So here's what the supplemental recommendation is meant to look like after the small team plus work. And again, looking at the strike throughs here this quickly, I understand it's not practical, but you'll all get the slides and there's no vote today, we're just talking.

And then next up is the last one, I believe. Topic 32, everybody's favorite, the limited challenge and appeal mechanism. The board's concern was it was not clear from the original recommendation that a challenge and appeal mechanism applicable to initial extended evaluation decisions made ICANN or third-party providers for challenges concerning conflict of interest of panelists could be designed in a way that does not cause excessive unnecessary costs or delays in the application process.

So the small team plus looked at this and in the supplemental recommendation removed references to specific evaluations and objection elements that instead made the specific areas dependent on being feasible and implementable, emphasized that challenge or appeals mechanisms are limited and on a one-time basis so they don't go on and on forever, specifically removed evaluation elements from being challengeable where extended evaluation is available, so cutting down the scope, and softened the linkage between the recommendation and the underlying implementation guidance. We used the phrase generally aligned with the principles of the implementation guidance so that we

weren't accidentally shoehorning that implementation guidance into the recommendation. Again, here are the strikethroughs and the additional language. Everybody will have a chance to read through these. And I'm doing an hour's worth of update in 15, 20 minutes. So I encourage everybody to attend the prep week call session on this because we'll get much more into some of the weeds on these. But this is what the strikethrough language look like. I think there's another page of this.

Oh yeah, one more, recommendation 32.2 and 32.10. Here's what we talked about. In support of transparency, clear procedures and rules must be established for the challenge appeals mechanism generally aligned with the principles. And again, for 32.10, generally aligned with the principles as opposed to as described in. And we've made some changes to annex of the implementation guidance to take out those things that already had extended evaluation because those will no longer be subject to an extra challenge or appeal mechanism since extended evaluation already serves that purpose.

So that's a lot. In terms of next steps, we are going to, and by the way, some folks, I think I saw an email from at least one valued team member asking what we will be doing leading up to in Puerto Rico as a small team plus. So this is the answer to that. Today we're just doing a quick update on the stable supplemental recommendations. There's a broader community update in the prep week next week on February 22nd. Don't miss out. On ICANN 79, there is an informal small team plus meeting to prepare for the community consultation at ICANN 79. There is a community consultation on the 6th in Puerto Rico. There is a small

team plus working session on Thursday the 7th, that's where we talk about what we learned from the community. And if we need amendments made, we are targeting those for the week of April 1 to get those to the council for consideration. And then hopefully for the April council meeting, April 18th, the council can consider the proposed supplemental recommendations put together by the small team plus after they've been through the various community consultation processes.

So all that to say lots of work still ahead, but even more behind. We are getting to the end, but we still have work to do and we still need to hear from the community around these things. So I covered a lot of ground fast. So I'm happy to take questions if we have time for that, or I'm happy to handle those in emails or on the list or some other way. I'll defer to Greg on that. So back to you, Greg, thanks.

GREG DIBIASE: Yeah, we have a couple minutes for questions if anyone would like to ask Paul questions at this stage. Anne and then Kurt.

ANNE AIKMAN-SCALESE: Oh, thanks. I just wanted to note very quickly that with respect to these supplemental recommendations, we've had some fairly positive input from members of the board SubPro caucus. The one that seems to be in question there at the moment is with respect to singulars and plurals and string similarity. So for those who have members of constituencies or stakeholder groups concerned about the singulars and plurals and the final report

recommendation that was sent to the board against singulars and plurals, you'll want to pay particular attention to that in our upcoming sessions. Thanks.

GREG DIBIASE: Thanks, Anne. Paul, did you want to respond to that?

PAUL MCGRADY: Yeah, just to thank Anne for pointing that out. It is something that I should have pointed out, which is that is the one where Becky and Alan remain the most concerned. And at some point, if we can't figure that out, council may be put into a weird position of being asked to send something to the Board which we know may not make it past the vote. So Anne, that's a great heads up and an important clarification. When I said nothing in here should surprise the board, I should have clarified that nothing will surprise the board, but that one, they still may not like, because we've not come all the way around to seeing it their way. Thank you. Thanks, Anne. Thanks, Greg.

GREG DIBIASE: Thanks, Paul. Thanks, Anne. Yeah, and I don't think that's a problem necessarily. We're continuing to effectuate the community intent and the recommendation. If the board ultimately votes against it, a topic for discussion. Kurt.

KURT PRITZ: Thanks, Paul. That was excellent. Anne sort of took my question, which was, is the board behind each of the recommendations? And if not, to build on the discussion we just had, what could the council do to back up the conclusions that you guys have come to? Could the council take a vote and formally make a new policy recommendation, or is there some other way that the board or that the council could support the logic behind your recommendation to help you win the day on these things? So maybe we don't know the answer now, but maybe we can think about how the council as a whole could support the recommendations. Thanks.

GREG DIBIASE: Paul.

PAUL MCGRADY: Thanks, Kurt. And yes, the council as a whole will be taking a vote and will either support or not what comes out of the small team plus. And so they will be considered supplemental recommendations. They'll do away with the old version. These new ones will go up. And so they'll have the full moral authority of the council, unless the council votes no. Then they'll remain on the cutting floor where they are now. As for the board being behind them, Becky and Alan always remind us they can't speak for the full board, but they have been running these ideas past the board caucus. So we are as confident as we can about all these, except for the singular and plural thing that Anne raised. That one we think is still, there's not alignment from what the Board's thinking and what we're thinking on that one at this time. But as Greg notes, maybe that's okay. We don't always have to agree and the

board can do what they need to do with that one. But anyways, Kurt, thank you for the question. It was a good one.

GREG DIBIASE: Yeah, that's a great question. And a good reminder of one of the many reasons we are voting on these. In addition to kind of the legitimacy of these small teams that any decision that is made goes back to the council as a whole, is that a yes vote indicates to the board that these recommendations do have our support and are from the community. Great, thank you, Paul. Any other questions for Paul?

All right, let's move on to item six. So item six relates to the expired domain deletion policy and the expired registration recovery policy, which are policies regarding the renewal and expiration of domain names. This came before council previously as policies do to see if they need to be reviewed and updated or if they're fulfilling their purpose as implemented.

At the time, there was a general consensus that this policy is working at least reasonably well and may not necessarily warrant a new policy status report. However, the council went back to Compliance to ask their opinion on whether it looked like this was being implemented as designed, and Contractual compliance did a report looking at the data of reports they've received regarding this and feedback they've received from registrants on the ERP and renewal issues.

Part of that report noted that there were some confusing or ambiguous terms in the policy that perhaps could be fixed or

helped by educational materials updated on the site. So we asked ICANN to go ahead and propose new educational materials that would help kind of bridge the gap and ensure this policy was effective. I think we have ICANN staff to present kind of the initial report, validate everything I said was accurate, and then we'll consider these findings and whether there's a next step in next council meeting. Brian, are you there, from staff?

BRIAN GUTTERMAN: Hi, Greg, and hi everybody. Maybe we want to pull up the document provided via email to the council. So what we've done here is essentially compiled a list of the various resources we do have. These aren't materials, just to be clear, that were created as a result of sort of the council's review of the EDDP and the ERRP, this ongoing review. These are materials that were already available and are already available on ICANN.org in different places. And I guess something I wanted to add too, is that in addition to the educational materials that we have for registrants who find themselves on ICANN.org looking for materials if they're confused about the renewal policies or the expiration policies in place by the registrars, we do trainings, capacity development courses and things. We have our global support team who's really the front lines, as many of you know, in fielding calls and tickets from registrants who are frustrated or confused or don't know why their domain name has expired, they didn't know. So I guess wanted to add that, but we thought it would be helpful just to kind of walk through what we have now. So there's a page all about renewals under the broad umbrella of the domain name registrants educational page. And I don't want to read what's here

on what we sent out in this little report, but we have blogs, infographics, Compliance has its own materials that sort of live on their side of the page. So if someone is considering filing a complaint with Compliance, if it's a registrant, there's instructions there and there is a lot of detail.

But I guess our headline usually when we are talking about renewals and educational materials about domain name management in general is be vigilant, be active, renew your domain name well before it expires. Make sure you are getting the renewal notices from your registrar. Because for everyday registrants, I think we can all agree like the sort of ambiguity that is in the actual policy, there's ways to perhaps come up with new educational materials that could help that, but writing up something about the ambiguity or the data protection laws that have been enacted since the policy was put in place many years ago, not sure how much that would help with the registrant confusion that is there, which is why our educational materials sort of try and speak to the everyday registrant who doesn't know anything about ICANN because that's most registrants. And we try and deliver the message like be vigilant, get in touch with your registrar. If you're not sure, contact them, be clear about when your expiration is and things like that. So that's a little more on top of what we've sent here.

And with that being said, as the council continues to think about this issue, the registrant program stands ready to work on new materials if we think that's helpful to bridge a gap, to continue to be a resource. And of course, happy to answer questions that the council might have and help along the way here. So that's all I got.

GREG DIBIASE: Thanks, Brian. And I apologize. I think I said you guys created new materials, but it's actually collating the existing materials. So one preliminary question. I think these are kind of all over the ICANN site. Is there any plan to put them in one place or this is just noting for our edification, everything that exists?

BRIAN GUTTERMAN: Yeah, well, if you do a search on icann.org of information about the policy itself or renewals in general, a lot of these links will come up and you can go directly there. So in terms of the user experience of how you're going to find these different materials, hopefully it's sort of intuitive. Or if you're doing a Google search and it takes you to one of these links for that matter, you're going to find it in different ways.

There is a main page, which is at the top here, the renewing domain names homepage where just about everything is there. But there happens to be other materials that are helpful that sort of live in the contractual compliance section of the icann.org website. So while I'm not saying it's a perfect user experience in terms of finding these different things, we do have a homepage dedicated to renewals and most of the stuff is there under the educational materials. But we understand that the organization of the materials can always be improved after reviewing them and getting comments from the community and the council for that matter.

GREG DIBIASE: Got it. Thank you, Brian. Stephanie.

STEPHANIE PERRIN: Thanks very much. This is very helpful information. But speaking as one who has Googled a lot on the ICANN site, I don't think Google's quite enough. Particularly now we are revising a whole lot of things subsequent to GDPR compliance, and obviously, we're not there yet if we don't have an agreement yet, but with this and the transfer policy, maybe it's time to revive something that was long before my time, and that was a rather abortive effort to build a registrant rights handbook or charter. I'm guessing at the word charter having been in it, but it's long ago since I looked this up. But to have in one place a manual that states to the registrant what they should expect from the contracted parties that they're dealing with, X, Y and Z, this kind of work rather than—I think it's a good idea to warn them that they should be minding their own business and checking on their renewals, but they need a nice plain language manual that says your registrars are expected to do the following. And if you run into a problem and you've been managing your website through a third-party reseller of some kind, you may be totally unclear about crawling around the ICANN site to figure out what you've got a right to. So I think I would just suggest, not that I'm looking for more work, hoping to be off council by the time we grapple with this one, but that's a document that needs to be written and may well be required under the GDPR. I don't know, can't remember exactly how clear their transparency provisions are. Thank you.

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GREG DIBIASE: Thanks, Stephanie. I know there is a rights and responsibilities link for registrants. Whether it is satisfactory in its current form, I can't speak to that. I'm also seeing some comments in the chat that it's not always easy to search on the ICANN site. So what I would suggest to councilors, our action item here is to review the substantive resources to see if this seems sufficient and whether more work is needed. But I think that the second point would be, can these materials easily be found on the site? So maybe our feedback could be, this is sufficient. This seems like it covers the universe, but it's not easy to find them and they should be all in one place, possibly. That would be my comment. Any other questions for Brian or comments on this work? Okay. All right, then the task before council is to review these materials and then determine as a council whether further work is needed in this area, whether that be improve education materials or a policy status report. Peter, I see your hand.

PETER AKINREMI TAIWO: Thanks, Greg. So just wanted to ask whether the materials will be shared with all the stakeholders for our purpose of visibility. Since we're talking about visibility issues on ICANN website, I'm thinking if this material, when it is finalized, it's to be shared with all the stakeholders or community for them to be able to publish it somewhere so a registrant can be able to find or get access to it. So I'm just thinking if that is in the plan.

BRIAN GUTTERMAN: Yeah, well, I don't know how to directly respond to that. I think all these comments in the chat are useful. And there is ongoing work,

I think, as you know, with our web team to try and make the content across the board, whatever it is you're looking for on ICANN.org, which as you all know, is parts of SOs and ACs and working groups, there's a lot of stuff there and we're trying to improve the search function. We've actually come up with a, there's a new I need help page, which is particularly sort of relevant for registrants.

And like I said, I think a lot of our materials that are really speaking to the everyday registrants, if that makes sense, are encouraging them to—Because ICANN Org can't help them directly. They can submit complaints with our compliance department, but aside from that, we are doing mostly redirecting back to the registrar. We're helping them find out who their registrar is. That's often the case. They don't know who their registrar is. So I'm not trying to deflect, and I completely agree that more can be done and more can always be done to make the information easier to find, depending on what you're looking for. And that's ongoing work that we are doing, Peter.

But I guess getting back to the EDDP and the ERRP and what I started with, I think we're in agreement and Compliance is in agreement with sort of the Council that the language is a bit ambiguous. Some of the stuff that's happened, the GDPR, data protection laws that have come into place since the policy was put in place and published for that matter, there's more that can be done to help registrants that are confused about the policy, for whatever it is. And it might be that they're confused with the way that their registrar is talking to them and communicating to them about when their registration agreement is up, when their renewal

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is due, etc. So, I guess just to say, our resources are only one part of maybe the broader issue that we're talking about, and I hope that makes sense. Stephanie.

STEPHANIE PERRIN: It's a new hand. And I realize you're doing your best, Brian, and you have inherited quite a mess here to clean up, in my opinion. It's no easy task reformatting all this stuff and finding dates for the documents that we're complaining about. But I think one of the things that concerns me about end user confusion is the consolidation of the industry and just how difficult it is to understand exactly if you're not somebody who pays attention to how you got a domain name and how you got a website. If you are, for instance, an NGO or a neighborhood group, it's whoever the heck knows somebody that knows somebody that got your domain name. And you may not—own it is not the right word, but you may not control it. A web developer that's now gone out of business may have passed it on to somebody else.

So just explaining to people how the bottom part of the industry works that ICANN does not bother to reach out to, i.e. the resellers, you need to explain that somewhere. And I think it really goes in that manual. I think you need to do a proper manual.

GREG DIBIASE: I think we lost you Stephanie, but thank you for that point. And I would encourage councilors to look at these materials with those questions in mind about how we can make this more presentable to registrants. And if we have good ideas, maybe we can pass that

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feedback on to ICANN in writing or otherwise. Great. Any other comments or questions from Brian? I note Justine's note, does this need a small team? I wonder if this could be a note for the outreach team, a potential area for them to address. Just throwing that out there for the notes. Maybe that's something we can discuss at a later meeting when we've reviewed these materials.

Okay. I think we can move on to the next topic. That is ICANN 79 preparation. In this section, we're going to do a quick overview of what's on the agenda and then quickly go into the draft agendas for our bilateral with the GAC as well as with the board to make sure people are comfortable with those topics or suggest new ideas.

So going into the first day, I don't think we need to read through Saturday, March 2nd. Please take a look. And then on Sunday, we have GNSO working sessions. Let's scroll to what we're going to talk in each of these. So high level, these are all our meetings. Please register for them accordingly. Then let's go to, I think the working session is next. Maybe not. So Steve.

STEVE CHAN: Thanks, Greg. Maybe I can help assist you. So we do have extracts of the joint meetings with the board and the GAC, but we didn't extract some finer points of the agenda. You can talk through the working session if that helps, but I think you also know the topics there.

GREG DIBIASE: Yeah, so the one thing I'd note, then I'll just note one thing on the working session, a reminder that we're going to be looking at the various tools ICANN has to see what work is existing on our plate and kind of go through existing initiatives, make sure people understand them and possibly push back if these initiatives don't make sense. I think we're going to be working from the action decision radar. So giving one to-do for this council to look at the action decision radar ahead of time and bring your thoughts to that working session because we're going to be going through everything that is on that list with a fine tooth comb and figuring out how we can make things more efficient or otherwise improve. And that is the session, if you recall that we discussed an SPS and Paul will be leading at GNSO. Any questions on that before we move to the bilateral agendas? Steve.

STEVE CHAN: Thanks, Greg. This is Steve again. I just wanted to highlight one other proposed part of the working sessions. For session three of three, I think some councilors at least will be familiar with something we piloted at least, I think two ICANN meetings, which is a town hall. So we'll do a little more about trying to bring awareness to that session, but the idea is to make sure that the council is available for questions that the community thinks are important to talk about. So just wanted to make sure that there is awareness that we intend to bring that one back unless there are objections from the council to them. So thanks.

GREG DIBIASE: Thanks, Steve. Any concerns with the town hall concept? Okay, let us move on to the bilateral topics. So we have a couple, and I think I sent this around, the board sent an email about some questions they're thinking about and an email about some listening sessions pre-ICANN. In that email, they raised one question that they're thinking about regarding NIS2. And I'll at least read the beginning of this. We understand that some parts of the GNSO believe that the recent adoption of NIS2 requires ICANN to modify or develop laws. The board has not identified any current policy that's inconsistent with NIS2 compliance.

So this was a question the board raised for its bilateral and it's looking for feedback here. Speaking in my own personal opinion, I'm not sure we have consensus on this topic. I think there'll be varying views between constituencies. I know, for example, the registrars think that the current policies allow the flexibility to implement, but I know there's those with opposing views. So leadership initially thought to maybe note that, but not dive into a position given that there may be conflicting views. So I'd like to start there and see if anyone has thoughts on that. And I understand this may be difficult because possibly you're not sure what your stakeholders groups think. Kurt, I see your hand.

KURT PRITZ: Yeah, thanks. First, I don't know if we can get in the way of this agenda item since the board's put it up. I thought that any discussion by us would cause the board to take it down and replace it with something on which our time might be better spent. But yeah, it's the RySG position that as the board points out, NIS2 does not collide with any existing policies we have, and [inaudible]

the registration data policy where GDPR did in fact collide with existing policies. So handling that had to be addressed with policy development. In this case, our existing policies remain intact and contracted parties will have to comply with the laws in those jurisdictions that adopt some form of NIS2, which isn't done yet. So, yeah, but again, I don't know if we can get in the way of this agenda item or its discussion. Thanks.

GREG DIBIASE: Thomas.

THOMAS RICKERT: Thanks very much, Greg. I guess there are two dimensions to this question. One is whether we agree with the board that there is no conflict with existing policies. And I agree with that. I think that the new registration data policy has all the flexibility built into it in order to allow for the data elements required under Article 28 of NIS2 to be processed and all the other duties rising from Article 28 can also be made work with existing policies and arrangements that ICANN has. The other side of that is that certainly it's possible for contracted parties to comply with Article 28 without interfering with ICANN policy. So that's one thing.

I guess the other aspect is, and that's a broader discussion, whether ICANN should even consider to start policy development processes or otherwise react to national or regional regulatory initiatives. And I think that, and I've said this on numerous occasions, I think it was a bad precedent of the European

lawmakers to regulate something that I think should have been left with ICANN and the multi-stakeholder model.

So if we agree with reacting to NIS2 with a policy development process, I think we would set a very dangerous precedent and encourage other lawmakers around the globe to do something similar because they can have the rightful expectation that ICANN will then try to meet their requirements and standards by changing its policies and contracts. And I think that's something that we should not support, but we should support ICANN's way of doing things because that's the global way of making sure that we have an interoperable DNS.

GREG DIBIASE: Thanks, Thomas. And yeah, I agree with that view, but given the short time period before we present a unified view, I'd be curious if there's other people that hold a contrary view on Council. And I understand perhaps you need time to go back to your stakeholder groups. I see Peter, then Susan.

PETER AKINREMI TAIWO: Yeah, thank you, Greg. So I just wanted to understand if, from the council part, we'll actually look at NIS2 to understand the implications with the ICANN legal landscape for us to be able to advise, maybe like during the ICANN board meetings, be able to say these X and Y, which triggers these [inaudible] we need to move forward, or ICANN has a solid legal landscape to be able to move forward or not to initiate any PDP activities. We need to have our own house to understand NIS2 and see if it's actually—

because from Thomas that says we don't need to be reactive, then if you don't want to be reactive, we need to understand ICANN actually has a ground for that. Thank you.

GREG DIBIASE: Okay, thank you. Susan.

SUSAN PAYNE: Yeah, thanks, Greg. So I'm not speaking with instructions here, but I would say that I'm aware that some members of my constituency, and I believe also the Business Constituency, although obviously I'm not a BC representative, and so I'm not really speaking for the BC, do think that policy work is needed here. Whether that's a view held across the IPC, whether it's an IPC position, I can't say that, but I am aware that there are a number of IPC members who are of that belief. So I don't think that we can have a discussion with the board where there's [inaudible] a GNSO position, but I think the board anticipates that in their very first sentence where they say we understand that some parts of the GNSO think this.

So I guess if we're going to have a discussion on this topic with the board, then I guess we just have to set the opportunity for these different views to be reflected, I guess, because I don't think there is a pan-GNSO position on that.

GREG DIBIASE: Sure, thanks, Susan. And yeah, I was aware of those views too, and that was kind of my concern here. And I think there'll be

opportunity for the relevant stakeholder groups to express their opinions to the board in their own bilaterals. So we could push back on this question if we'd like. Anne?

ANNE AIKMAN-SCALESE: Yeah, thanks, Greg. It's Anne, and I have the luxury of not representing any constituency or stakeholder group and not having a vote. I tend to agree with Kurt that it's not a topic that you can say, well, we don't want to talk about that because we don't all agree on it. Because I think I agree with Susan. When we look at the fact that the—I'm assuming this is board language at the end of this paragraph. "We would be interested in having a thoughtful discussion reflecting views on both sides of this issue on one or both of these points."

So it kind of makes sense to me that there would be a spokesperson volunteering on the yes or no of the policy issue. And certainly, I do understand that everyone does need to consult with his or their constituency or stakeholder group as to that point. So I'm in favor of going ahead with this discussion with the board. Thank you.

GREG DIBIASE: Okay. And I'm not opposed to that. I guess my fear is I don't want like a debate to break out between different sides. I'd like to say something along the lines of, that there are different opinions. If we have a volunteer to very concisely say, perhaps as Thomas did, with one of these while saying council itself has no clear opinion. I suppose that makes sense to me. And I see Susan's

idea in the chat to reorder. And I'm seeing some agreement there. Then maybe my proposal is to leave it, reorder, make it clear that there's no unified council positions, but time allowing, allow for a different member to concisely state their opinion without engaging in like a debate about this. Paul, do you want to voice your third side?

PAUL MCGRADY: Thank you. Yeah, I'm just going to very annoyingly have a third side, which is I'm so agnostic. I mean, this has not been fully implemented. There's multiple states looking at this. And the board was careful. They said current. They've not identified anything yet, but that doesn't mean that all this is done. So I just think that whatever, as we talk about, well, we believe that it does require policy work or we believe it doesn't, I think we should bring some humility to it and say it's still unsettled and hey board, thanks for raising it. And I really liked the idea of moving it to item number four. Because if we give it too much air time, we may not get to these other things, which I think are equally important.

GREG DIBIASE: Great. Makes sense to me, Paul. Stephanie?

STEPHANIE PERRIN: Yes, Stephanie Perrin for the record. I'll try to be quick here. A, I'm obviously of the view that nothing requires policy changes, but B, even if I'm wrong, it only makes sense to wait until you have legal precedent. I'm not the lawyer or anything, but I think it's a bit disingenuous to say, oh dear, we have to start revamping our

policies because this must be not in compliance with NIS2. I mean, that's crazy. You wait and you wait and just see if it's going to get hauled into the court and be argued on human rights grounds. So, come on guys. I think I agree with moving it to item number four, good idea, if you want to just duck, but I do think we should call them on it. You don't start revising policy when the member states haven't even enacted it when you don't have any court cases. Thank you.

GREG DIBIASE: Thanks, Stephanie. Okay, I'm getting pinged by staff on time. So, we're going to move this to four, state that there's not a council position, and then time allowing, allow for some councilors to speak their thoughts. Moving to the other topics, and I believe we sent these around. Other topics we had from the SPS, we wanted to continue our conversation about ensuring policy recommendations are board-ready. We had a proposed agenda point to follow up on our letter regarding the board resolutions. And those are the ones that related to applicant support and the proposed amendments regarding that. And I guess I'd note there that it's adjacent to the RFI that the IPC sent out, but it would be different. It would be referring to our letter about having a dialogue about the issue as opposed to the RFR specifically. And then the last item we had suggested was outstanding items related to pending SubPro recommendations. So, those are the proposed topics now. Jeff.

JEFFREY NEUMAN: Yeah, thanks. And this relates to a question I've been asked by GAC members and also may relate to a topic we're going to talk about in a second. But what about the items related to SubPro that are not related to pending recommendations? So, as you all may recall, there were a couple items that didn't make it out of SubPro, like from the council to the board. One was related to closed generics and that in theory has been resolved. The second one relates to the private resolution of contention sets. So, the question I was asked by GAC members is, do we know or have any views on what the mechanism is to determine outstanding items that we know are related to the next round of new gTLDs but maybe not related to pending SubPro recommendations? Because right now there is no pending SubPro recommendation on auctions of last resort or on private resolution. So, I guess my first question is, are we only talking about outstanding items related to actual pending recommendations or can we make it a little bit bigger to find out what our outstanding items related to getting to the next round? And then what can I tell the GAC?

GREG DIBIASE: Thanks. So, I think as written, it's regarding the recommendations that we're bringing back. But I guess personally speaking, I don't have an issue with broadening it to SubPro recommendations generally if the council thinks there's additional topics worth discussing. Anne?

ANNE AIKMAN-SCALESE: Yeah, thanks. In terms of what Jeff has brought up about private auctions or private resolution of contention sets being an open

question, I have a vague recollection from the small teamwork that we supplied a clarifying statement saying that council took no position with respect to private resolution of auctions and the SubPro didn't make a policy recommendation for or against. Now, Paul and others will be able to enlighten me further on whether that is accurate. Maybe staff can remember exactly what we said but I thought we said something, and so I'm not quite sure what our procedural context is for bringing that up again. Thanks.

GREG DIBIASE: Right, that's a good point, Anne. And I guess following onto that, is that really an item within council's purview? [While the other ones really are.] Jeff and then Susan.

JEFFREY NEUMAN: Yeah, so, yeah, that's true, Anne, that we don't have a policy on it. But that doesn't mean that work doesn't need to be done in order to get to the next round. And from the GAC perspective, the reason I'm bringing it up is whether there was our existing recommendations or not on certain topics, they still need to be addressed somehow in the community and we can't just pretend that they don't exist, because there needs to be something done.

So what I'm saying here is a possibility of making this broader to say outstanding items related to the next round of new gTLDs or getting to the next round or whatever it is. So I understand that there's no policy, but the GAC understands and have asked me that they need to be addressed somehow. And is there a GNSO process to address it? If not, we can say, okay, well, we'll just not

do anything and we'll have a community resolve it somehow. But can't pretend that they don't exist.

GREG DIBIASE: Okay, that makes a little more sense. Even if we don't necessarily have a council position, we can still ask the Board what they view the statuses or to have a conversation. Susan.

SUSAN PAYNE: I was more or less going to say something along the same lines as Jeff, but just a bit briefer, I guess, in the sense of, I just view this as within our purview because there were recommendations on this. There are recommendations surrounding this. Yes, the specific one about private auctions didn't get sufficient consensus and so it never got passed up to the Board. And that's all well and good, but this topic still exists and we know from conversations with the board that they were going to do their own investigations and research on auctions. So I think it's perfectly sort of valid for us to seek an update on what the status and how are we going to move this on, because it is still an issue.

GREG DIBIASE: Okay. Yeah, I don't object to broadening to flag that this is still an issue that's unresolved from the council's perspective. Justine, and then we might have to move on because we're running behind.

JUSTINE CHEW:

Thanks, Greg. So just to add on to what Susan said, and I posted it in chat, the ALAC has been consistently asking about auctions and we posed this question to both org and board. And the unofficial reply that we received is that what Susan said, right, ICANN is engaging in auctions expertise to help come up with a solution. And that's the only reply that we received, no details.

So if GNSO would like to, and I'm asking for support here, if GNSO could raise the same question, GAC's raised the same question, then perhaps we can get some details, proper details, because the whole community is asking about this. Thank you.

GREG DIBIASE:

Great, that seems reasonable to me, Justine. Thank you. Okay. All right, so I'm going to draw the line here, moving NIS2 to the topic four and discussing, as we discussed earlier, and then broadening the SubPro point to include a question on private auctions. So I think since we're running behind, we might send the GAC agenda out to the list for comments. I think it's a little less controversial or there's less to discuss. And then we'll move on to the next item.

We have a council update on the Name Collision Analysis Project Discussion Group is currently seeking input on its draft agenda and its draft two study report. And as this has a significant impact to our SubPro work, we've invited staff to give a quick overview of the report. I think Steve, you're available to present?

STEVE SHENG: Yes, Greg, thank you. So I will present this on behalf of the discussion group. Unfortunately, neither the co-chair can make it nor the SSAC chair. So I will present, I will take your questions and refer back to the NCAP discussion group chairs. Next slide, please.

So just by way of a background of the Name Collision Analysis Project, this originated from a 2017 ICANN board request that is tasking SSAC to conduct studies to present data analysis and points of view and provide advice to the board on Name Collisions. There are two specific ask for that resolution. One is the board is requesting specific advice regarding home, corp and mail. And second is general advice regarding Name Collision going forward.

So the SSAC took this task and what was formed is a called a Name Collision Analysis Project discussion group. So this group is composed of SSAC members as well as community members. They work in an open and transparent way for quite a number of years, as you have seen. And with the delivery of study two report, through the years of deliberation, what they provide is a means to preserve the security and stability of the internet namespace, a framework to analyze real life impact of Name Collisions as well as rationale to take those seriously. And finally, these recommendations, if adopted, would impact the next TLD round, as well as all future rounds.

So in the interest of time, I'll only kind of do a very brief high-level overview of some of the findings and recommendations. At the end of the—There are a set of background slides you can read as your leisure that provides more detail. Let's go back a few slides.

Yes, this one, thank you. So on the risk to security and stability of name collisions, the NCAP discussion group has commissioned several reports to study where the name collisions are. The first one is 2012 round, but almost 10 years later where they are.

And through these series of studies, what they found is the potential for a significant name collision string still occurs. In part because those early supposedly collision strings still generate, receive a lot of traffic. And second, in some of these strings, the traffic has actually increased. A case in point is the corp, home and mail. A data study was done on that based on observation in 2022, and found the queries to these TLDs, not delegated, actually increased quite a bit over the course of 10 years. And one reason for this increase obviously is during COVID, where with the remote work, many computer devices were taken out of the corporate infrastructure and moved into the home environment. In other words, these queries that used to be contained inside a corporation now are leaking out to kind of the general internet and can be observed by recursive resolvers as well as root servers.

During the course of the study, the NCAP discussion group have what they called critical diagnostic measurements. So this is a series of six criteria really to measure the impact of name collision. And the volume of query is only one measure. Other measures include, for example, the diversities of these queries, how many networks these queries are coming from, the diversity of the secondary labels. Was the secondary label more or less the same, for example, the case in point is for dot internal, what we found was that many of those labels are coming from EC2.internal, which is something that Amazon uses for their cloud,

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but other strings where the labels, there is a much more diverse. So I think critical diagnostic measurement, capture those, a set of criteria that can help to predict the impact of name collisions.

There was also a study done to look at the 57 reports to ICANN where people actually filed a name collision report in the last round. And there's a survey done to them to see what the actual impact of these delegations are. And what they found is the impact of TLD delegation ranges from no impact to severe impact. In one severe case, tens of thousands of computers on the networks were infected.

The studies also found the private use of the DNS suffix is widespread. These are the suffixes that end in a non-delegated TLD that are used internally. Those are widespread. And these collision reports are supported strongly by measured data. So in addition to measuring the 57 reports, they also did a passive DNS analysis to see whether that correlates with the measured data. And what they found, the correlation was quite strong. Finally, the DNS, the service discovery protocols and suffix search lists are still a major problem.

So in short, name collision will continue to be a difficult problem to identify and remediate. And one of the reasons why it's difficult to identify is over the past 10 years, the internet technology changed quite a bit. If you recall, we have the Snowden revelation and then as a result, the IETF has taken aggressive efforts on the privacy issues. So as a result of the implementation of these privacy enhancements to the DNS protocol, both at the root server and at the recursive server, they have much less visibility of this issue. It doesn't mean that the collision doesn't happen. It means that

there's a much less visibility into it. That's why it's making the problem difficult to identify and remediate. Next slide, please.

So what did the NCAP discussion group came up? These are kind of the recommendations that are detailed in section five of the report. One thing is the discussion group recognized the need to have a dedicated technical review team function to analyze name collision. And this team will really serve as four functions. One is to assess the visibility of name collisions, document the results, assess any mitigation or remediation plans, and then implement an emergency removal of a delegation if necessary. So I think that's kind of the top line recommendation.

Another important recommendation is the discussion group recommends ICANN to treat name collision as a risk management problem. In other words, there's no single mechanism. There's no magic bullet that will allow ICANN to identify and mitigate name collisions with a perfect degree of certainty. So you treat this as a classical risk management problem. Identify your risk tolerance levels and then identify how much these risks can be mitigated. And based on those information, make an informed decision on a per TLD basis.

A third recommendation that is quite key is the discussion group supports the delegation of strings ahead of time before they were granted so as to improve the ability to conduct a name collision risk assessment. Now this is where it differs from the 2012 round. So the 2012 round was really delegate the string, ask registry to do a set of mitigation, for example, reserving certain second level TLDs, returning a specific IP address for a period of time.

And this recommendation departs in the sense they asked the string to go through a delegation, what's called a trial delegation so that the name collision risk can be better assessed. And this is really bringing the name collision to the surface. Because currently, with the current internet environment, you don't have any confidence to make sure that what you see is what's actually there.

Case in point, the study team did a comparison. They looked at a list of top queries of non-existent TLDs at the root server. And then they compared that with the same at a recursive resolver. And what they found is those results are vastly different. The ones that show up as top collision strings at the recursive server doesn't even nearly meet the top 20 of the root. That's why it's difficult to evaluate. You want to bring these assessment up front by doing a trial delegation. And four follows three, is to replace the existing name collision management framework that is in 2012 round with a name collision assessment framework.

And these assessment framework are in section, I think, 5.8 of the report. I think, if council members are interested, that will be a key section for you to review. I just want to highlight a few things the discussion group recommends ICANN should not reject a TLD solely based on the volume of main collisions. ICANN should request special attention to strings with high impact risks. And finally, ICANN should update its public-facing collision reporting process. So those are kind of part of the framework. You know, there's a series of steps, I think four or five that go through.

And finally, I want to touch on recommendation [6.6] here to develop and document the process for emergency change. And

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through the part of the research, what they found is there's no way currently in IANA as a process to identify a problem and then take it back. And I think in the overall interests of internet security and stability for DNS, it's good to have that emergency change process.

And finally, the discussion group sees no need for study three. So with the framework, with the findings of the three sub-studies of study two, I think that provides enough advice and recommendation to ICANN board. So I want to stop there. That's a brief overview of the study two discussion report. And then like I said, there's more details in the slides and there's also the report.

The discussion group is soliciting public comment. And I think the public comment ends on February 28th. And then after that, they will go through the public comments and update the report accordingly. So I think that's my update. Thanks.

GREG DIBIASE: Thank you, Steve. Any questions for Steve? I see one quick one from Kurt. What TLD had the severe impact? Do you know off the top of your head?

STEVE SHENG: I have to look at it. I think it was corp. We're looking at the case study for corp. There's observed increase queries to corp and also increase in the networks where those queries come from, as well as the increase to the number, the diversity of secondary labels. So I think that that was a TLD with high impact, I wouldn't say severe impact.

But one of the things that the study group finds, if we look at the top 20 queries to the root for non-existent TLDs, you will see this top 20 list changes from week to week. So in other words, it's not a stable list that goes there forever, that you can simply create a do not apply list. But this list changes regularly. And if you look at the list from a recursive resolver perspective, it's also the same. And that's also very different from what you see at the root.

GREG DIBIASE: Interesting. All right, thank you, Steve. We appreciate it. And if there's no other questions, we'll move on to AOB or at least a couple items in AOB. Oh, sorry, Anne, I see your hand.

ANNE AIKMAN-SCALESE: Yeah, thanks, Greg. Just a very quick comment, as I have been working on this discussion group for several years and with a poor technical background. But one of the things I wanted to mention is that in connection with the SubPro final report, there was, I think we were considering rate of delegation to the root in terms of if you have to delegate the string just to see what the name collisions are going to be before you award a contract, are you going to threaten what's happening at the root in terms of delegation rates? So the discussion group, keeping in mind the advice we had, I think from RSSAC on that, consulted with IANA about pre-contract delegations to the root. And IANA said they thought they could handle it. And that would only happen when ICANN itself refers the string to the technical review team. So just in case anybody's wondering, as you read that very long report.

So thanks. It takes really a lot of time to digest this material. So if you want to comment, get on it now. Thanks.

GREG DIBIASE: Right, thanks, Anne. All right, in AOB, I'm going to skip ahead to 9.7 because I think it is the most worthy of a reminder. And we've been working on this diacritic request, diacritic study request. Mark had sent in some information and we had kind of assessed what the right next steps were. And then looking at it closer, ICANN is now of the opinion they may be able to solve this through suggesting a mechanism and a study request might not even be necessary. I have Steve Chan to provide more background on that.

STEVE CHAN: Thanks, Greg. Not to add a whole lot other than to say that, so obviously the Org observes the council meeting and so they're aware of the potential request. So all we're suggesting or all they're suggesting, I guess it's not really me doing it, but is that they're willing to start evaluating whether or not those approaches or options exist without waiting for a formal request from the council. So that's all I'm really bringing to you today, is just to see if there's any objection to the org looking into potential approaches to be able to supply, or I guess, come up with solutions to allow for the same entity to operate the ASCII and diacritic version of the gTLD. And from what I understand from my colleagues, we think we can provide some preliminary analysis shortly after ICANN. Thanks.

GREG DIBIASE: Thanks, Steve. Anne?

ANNE AIKMAN-SCALESE: Thanks, it's Anne. I guess Steve anticipated my question because usually when we're going to have Org look into it, we're all wondering what's the timeframe of doing that. And I guess Steve, I understood your answer to be, there would be a preliminary conclusion about whether this can be solved without the study shortly after ICANN 79. Is that correct?

STEVE CHAN: At this stage, that's my understanding. Thanks for the question, Anne.

ANNE AIKMAN-SCALESE: Great, thank you. I know Mark is not on the, I think he's maybe not on our call, but I'm sure he'll probably review the Zoom and he was leading us on this question, I think.

GREG DIBIASE: Yep, we'll be sure to reach out to him. Great. With the two minutes left, real quickly go to 9.2. We circulated the board letter on closed generics. I think at least leadership is of the position there's no work to be done right now on this topic. We asked the board for their approach on how to move forward and they gave the recommendation. So just wanted to check in to make sure that the council shares this assumption. Waiting for really quick hands.

And if you don't know what I'm talking about, please review this letter for the status on closed generics. All right, let's see if we can get one more AOB. Oh, wait, Steve, you had one more AOB.

STEVE CHAN: I do, but if you want to have a substantive AOB or two still that you want to run through, then you should do that. But yeah, I do have one.

GREG DIBIASE: I think we can do the rest over email, just updates, or push to the next meeting. Why don't you give your update?

STEVE CHAN: Awesome, thanks. Thanks, Greg. This is Steve again from staff. So I think it was actually just last month that I provided an AOB about a new staff member joining who is Saewon Lee. And I think some of you have gotten a chance to work with her. But I come with more good news, I'd like to think, which is that we have another member joining the team. She just joined 15 days ago. Her name is Feodora Hamza, and they will both actually be with us on the ground in Puerto Rico. So I'm very excited to have her and also Saewon fill out the team again. And I think we're in a great position to support the council. So say hi once we're all in Puerto Rico. Thanks.

GREG DIBIASE: Awesome, great, Steve. Happy to have you both on the team. With that, I think I will close this comment. Any outstanding AOBs, we'll send a follow-up email, but let's close in a timely matter unless anyone has any other last minute interventions. Seeing none, I'll close this meeting and very much look forward to seeing all of you or a lot of you at least in Puerto Rico. Thanks all.

TERRI AGNEW: Thanks everyone. Once again, the meeting has been adjourned. I will stop recordings and disconnect all remaining lines. Take care. See you soon.

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